

AMENDED IN ASSEMBLY APRIL 5, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 821

Introduced by Assembly Member Simitian

February 22, 2001

An act to amend ~~Section 13848.4~~ *Sections 13848.4 and 13848.6* of the Penal Code, relating to the high technology crimes.

LEGISLATIVE COUNSEL'S DIGEST

AB 821, as amended, Simitian. High Technology Crime Task Force.

Existing law establishes the High Technology Theft Apprehension and Prosecution Program Trust Fund, and specifies the purposes for which the moneys in the fund may be used. Funding is contingent upon appropriation by the Legislature, as provided.

This bill would, in addition, permit the Executive Director of the Office of Criminal Justice Planning to allocate and award up to 5% of the funds available from the trust fund to public agencies or private nonprofit organizations for the purposes of establishing statewide programs of education, training, and research for public prosecutors, investigators, and law enforcement officers relating to deterring, investigating, and prosecuting high technology-related crimes.

Existing law establishes the High Technology Crime Advisory Committee, composed of members representing various governmental agencies and professional organizations, appointed by the Executive Director of the Office of Criminal Justice Planning.

This bill would in addition provide for the appointment by the executive director to the committee of a representative of the California banking industry.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 13848.4 of the Penal Code is amended
2 to read:

3 13848.4. (a) All funds appropriated to the Office of Criminal
4 Justice Planning for the purposes of this chapter shall be deposited
5 in the High Technology Theft Apprehension and Prosecution
6 Program Trust Fund, which is hereby established. The fund shall
7 be under the direction and control of the executive director.
8 Moneys in the fund, upon appropriation by the Legislature, shall
9 be expended to implement this chapter.

10 (b) Moneys in the High Technology Theft Apprehension and
11 Prosecution Program Trust Fund shall be expended to fund
12 programs to enhance the capacity of local law enforcement and
13 prosecutors to deter, investigate, and prosecute high
14 technology-related crimes. After deduction of the actual and
15 necessary administrative costs referred to in subdivision (f), the
16 High Technology Theft Apprehension and Prosecution Program
17 Trust Fund shall be expended to fund programs to enhance the
18 capacity of local law enforcement, state police, and local
19 prosecutors to deter, investigate, and prosecute high
20 technology-related crimes. Any funds distributed under this
21 chapter shall be expended for the exclusive purpose of deterring,
22 investigating, and prosecuting high technology-related crimes.

23 (c) Up to 10 percent of the funds shall be used for developing
24 and maintaining a statewide data base on high technology crime
25 for use in developing and distributing intelligence information to
26 participating law enforcement agencies. In addition, the Executive
27 Director of the Office of Criminal Justice Planning may allocate
28 and award up to 5 percent of the funds available to public agencies
29 or private nonprofit organizations for the purposes of establishing
30 statewide programs of education, training, and research for public
31 prosecutors, investigators, and law enforcement officers relating
32 to deterring, investigating, and prosecuting high

technology-related crimes. Any funds not expended in a fiscal year for these purposes shall be distributed to regional high technology theft task forces pursuant to subdivision (b).

(d) Any regional task force receiving funds under this section may elect to have the Department of Justice administer the regional task force program. The department may be reimbursed for any expenditures incurred for administering a regional task force from funds given to local law enforcement pursuant to subdivision (b).

(e) The Office of Criminal Justice Planning shall distribute funds in the High Technology Theft Apprehension and Prosecution Program Trust Fund to eligible agencies pursuant to subdivision (b) in consultation with the High Technology Crime Advisory Committee established pursuant to Section 13848.6.

(f) Administration of the overall program and the evaluation and monitoring of all grants made pursuant to this chapter shall be performed by the Office of Criminal Justice Planning, provided that funds expended for these functions shall not exceed 5 percent of the total amount made available under this chapter.

SEC. 2. Section 13848.6 of the Penal Code is amended to read:

13848.6. (a) The High Technology Crime Advisory Committee is hereby established for the purpose of formulating a comprehensive written strategy for addressing high technology crime throughout the state and to advise the Office of Criminal Justice Planning on the appropriate disbursement of funds to regional task forces.

(b) This strategy shall be designed to be implemented through regional task forces. In formulating that strategy, the committee shall identify various priorities for law enforcement attention, including the following goals:

(1) To apprehend and prosecute criminal organizations, networks, and groups of individuals engaged in the following activities:

(A) Theft of computer components and other high technology products.

(B) Violations of Penal Code Sections 211, 350, 351a, 459, 496, 537e, 593d, and 593e.

(C) Theft of telecommunications services and other violations of Penal Code Sections 502.7 and 502.8.

1 (D) Counterfeiting of negotiable instruments and other
2 valuable items through the use of computer technology.

3 (E) Creation and distribution of counterfeit software and other
4 digital information, including the use of counterfeit trademarks to
5 misrepresent the origin of that software or digital information.

6 (2) To apprehend and prosecute individuals and groups
7 engaged in the unlawful access, destruction, or unauthorized entry
8 into and use of private, corporate, or government computers and
9 networks, including wireless and wireline communications
10 networks and law enforcement dispatch systems, and the theft,
11 interception, manipulation, destruction, and unauthorized
12 disclosure of data stored within those computers.

13 (3) To apprehend and prosecute individuals and groups
14 engaged in the theft of trade secrets.

15 (4) To investigate and prosecute high technology crime cases
16 requiring coordination and cooperation between regional task
17 forces and local, state, federal, and international law enforcement
18 agencies.

19 (c) The Executive Director of the Office of Criminal Justice
20 Planning shall appoint the following members to the committee:

21 (1) A designee of the California District Attorneys
22 Association.

23 (2) A designee of the California State Sheriffs Association.

24 (3) A designee of the California Police Chiefs Association.

25 (4) A designee of the Attorney General.

26 (5) A designee of the California Highway Patrol.

27 (6) A designee of the High Tech Criminal Investigators
28 Association.

29 (7) A designee of the Office of Criminal Justice Planning.

30 (8) A designee of the American Electronic Association to
31 represent California computer system manufacturers.

32 (9) A designee of the American Electronic Association to
33 represent California computer software producers.

34 (10) A designee of the California Cellular Carriers
35 Association.

36 (11) A designee of the California Internet Industry Alliance.

37 (12) A designee of the Semiconductor Equipment and
38 Materials International.

39 (13) A designee of the California Cable Television
40 Association.

1 (14) A designee of the Motion Picture Association of America.

2 (15) A designee of either the California Telephone Association
3 or the California Association of Long Distance Companies. This
4 position shall rotate every other year between designees of the two
5 associations.

6 (16) A designee of the Science and Technology Agency, if
7 Senate Bill 1136 is enacted, and, as enacted, creates the Science
8 and Technology Agency, otherwise, a designee of the Department
9 of Information Technology.

10 (17) *A representative of the California banking industry.*

11 (d) The Executive Director of the Office of Criminal Justice
12 Planning shall designate the Chair of the High Technology Crime
13 Advisory Committee from the appointed members.

14 (e) The advisory committee shall not be required to meet more
15 than 12 times per year. The advisory committee may create
16 subcommittees of its own membership, and each subcommittee
17 shall meet as often as the subcommittee members find necessary.
18 It is the intent of the Legislature that all advisory committee
19 members shall actively participate in all advisory committee
20 deliberations required by this chapter.

21 Any member who, without advance notice to the executive
22 director and without designating an alternative representative,
23 misses three scheduled meetings in any calendar year for any
24 reason other than severe temporary illness or injury (as determined
25 by the Executive Director of the Office of Criminal Justice
26 Planning) shall automatically be removed from the advisory
27 committee. If a member wishes to send an alternative
28 representative in his or her place, advance written notification of
29 this substitution shall be presented to the executive director. This
30 notification shall be required for each meeting the appointed
31 member elects not to attend.

32 Members of the advisory committee shall receive no
33 compensation for their services, but shall be reimbursed for travel
34 and per diem expenses incurred as a result of attending meetings
35 sponsored by the Office of Criminal Justice Planning under this
36 chapter.

37 (f) The executive director, in consultation with the High
38 Technology Crime Advisory Committee, shall develop specific
39 guidelines and administrative procedures for the selection of
40 projects to be funded by the High Technology Theft Apprehension

1 and Prosecution Program, which guidelines shall include the
2 following selection criteria:

3 (1) Each regional task force that seeks funds shall submit a
4 written application to the committee setting forth in detail the
5 proposed use of the funds.

6 (2) In order to qualify for the receipt of funds, each proposed
7 regional task force submitting an application shall provide written
8 evidence that the agency meets either of the following conditions:

9 (A) The regional task force devoted to the investigation and
10 prosecution of high technology-related crimes is comprised of
11 local law enforcement and prosecutors, and has been in existence
12 for at least one year prior to the application date.

13 (B) At least one member of the task force has at least three years
14 of experience in investigating or prosecuting cases of suspected
15 high technology crime.

16 (3) In order to qualify for funds, a regional task force shall be
17 comprised of local law enforcement and prosecutors from at least
18 two counties. At the time of funding, the proposed task force shall
19 also have at least one investigator assigned to it from a state law
20 enforcement agency. Each task force shall be directed by a local
21 steering committee composed of representatives of participating
22 agencies and members of the local high technology industry.

23 (4) Additional criteria that shall be considered by the advisory
24 committee in awarding grant funds shall include, but not be limited
25 to, the following:

26 (A) The number of high technology crime cases filed in the
27 prior year.

28 (B) The number of high technology crime cases investigated in
29 the prior year.

30 (C) The number of victims involved in the cases filed.

31 (D) The total aggregate monetary loss suffered by the victims,
32 including individuals, associations, institutions, or corporations,
33 as a result of the high technology crime cases filed, and those under
34 active investigation by that task force.

35 (5) Each regional task force that has been awarded funds
36 authorized under the High Technology Theft Apprehension and
37 Prosecution Program during the previous grant-funding cycle,
38 upon reapplication for funds to the committee in each successive
39 year, shall be required to submit a detailed accounting of funds
40 received and expended in the prior year in addition to any

1 information required by this section. The accounting shall include
2 all of the following information:

3 (A) The amount of funds received and expended.

4 (B) The use to which those funds were put, including payment
5 of salaries and expenses, purchase of equipment and supplies, and
6 other expenditures by type.

7 (C) The number of filed complaints, investigations, arrests, and
8 convictions that resulted from the expenditure of the funds.

9 (g) The committee shall annually review the effectiveness of
10 the regional task forces created in deterring, investigating, and
11 prosecuting high technology crimes and provide its findings in a
12 report to the Legislature and the Governor. This report shall be
13 based on information provided by the regional task forces in an
14 annual report to the committee which shall detail the following:

15 (1) Facts based upon, but not limited to, the following:

16 (A) The number of high technology crime cases filed in the
17 prior year.

18 (B) The number of high technology crime cases investigated in
19 the prior year.

20 (C) The number of victims involved in the cases filed.

21 (D) The number of convictions obtained in the prior year.

22 (E) The total aggregate monetary loss suffered by the victims,
23 including individuals, associations, institutions, corporations, and
24 other relevant public entities, according to the number of cases
25 filed, investigations, prosecutions, and convictions obtained.

26 (2) An accounting of funds received and expended in the prior
27 year, which shall include all of the following:

28 (A) The amount of funds received and expended.

29 (B) The uses to which those funds were put, including payment
30 of salaries and expenses, purchase of supplies, and other
31 expenditures of funds.

32 (C) Any other relevant information requested.